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December 4, 1998

VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

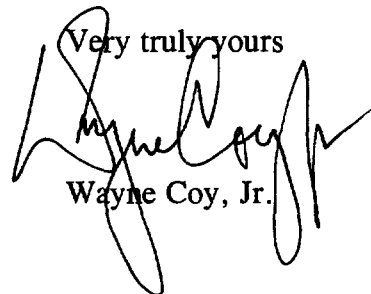
Re: Reply Comments in MM Docket 98-93

Dear Ms. Salas

Transmitted herewith, on behalf of Hampton Roads Educational Telecommunications Association, Inc., are the original and five (5) copies of its Reply Comments in the above-captioned Docket.

Should you have any questions with respect to this filing, please contact the undersigned.

Very truly yours



Wayne Coy, Jr.

Enclosure

cc: Richard J. Bodroff, Esq.

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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Federal Communications Commission

In the Matter of)
)
1998 Biennial Regulatory Review -) MM Docket No. 98-93
Streamlining of Radio Technical Rules in)
Pars 73 and 74 of the Commission's Rules)

To: The Commission

REPLY COMMENTS OF HAMPTON ROADS EDUCATIONAL TELECOMMUNICATIONS ASSOCIATION, INC.

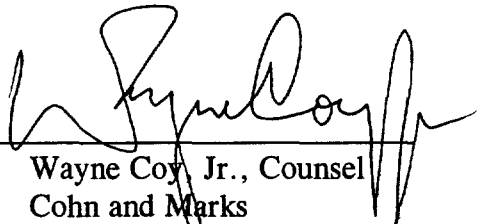
Hampton Roads Educational Telecommunications Association, Inc., licensee of noncommercial educational broadcast station WHRO-FM, Norfolk, Virginia, and applicant for a new noncommercial educational FM station, BPED-971015MB, Mathews, Virginia, ("HRETA"), hereby submits these Reply Comments in the above-captioned proceeding which are responsive those Comments filed by Central Virginia Educational Telecommunications Corporation, licensee of noncommercial educational broadcasting station WCVE-FM, Richmond, Virginia, ("CVETC").

1. The essence of the CVETC Comments is to support the Commission's proposal in the *NPRM* to permit a broadcast station to elect to receive interference from an authorized station in connection with a unilateral extension of its service contour, and to extend that principle to receipt of interference from authorized construction permits or pending applications as well. CVETC then cites the example of its proposal to expand the signal of WCVE-FM which is in conflict with the HRETA application for the new station at Mathews.

2. Attached to this pleading is an Engineering Statement by Joseph M. Davis, P.E. of the firm of Cavell, Mertz & Davis, Inc., which further describes the prohibited overlap. As can be readily seen from **Figure 1**, the interfering predicted contour from the proposed WCVE facility has considerable overlap with the protected contour of the proposed Mathews facility, and such overlap is prohibited by §73.509(a) of the Rules of the Commission. However, there is no overlap between the proposed Mathews interfering contour and the predicted contour of the proposed WCVE facility. Thus the Mathews facility would not interfere with the proposed WCVE service area. Therefore, the example cited by WCVE is inapposite to the proposition cited above since its proposed expansion will cause but not receive interference.

3. Notwithstanding the instant case, HRETA generally supports the notion that a existing educational broadcaster ought to be able to expand its service area up to the point that it borders on creating or causing interference, and if that point means they will receive interference, then the broadcaster ought to be able to decide whether to accept interference or not. However, HRETA foresees that the possibility of receiving-but-not-causing interference could lead to endless proposals and counterproposals in an effort to gain every last foot of area served, that the processing line at the Commission could not support it. Therefore HRETA take the position that this matter may require further study and analysis before it is adopted.

Respectfully submitted,

By: 
Wayne Coy, Jr., Counsel
Cohn and Marks
1920 N Street, N.W., Suite 300
Washington, D.C. 20036-1622

December 4, 1998

ENGINEERING STATEMENT

prepared for

Hampton Roads Educational Telecommunications Association, Inc.

Mathews, Virginia

Ch. 206B1 5 kW 119 m

This statement has been prepared for *Hampton Roads Educational Telecommunications Association, Inc. ("HRETA")*, in support of Reply Comments to the Commission's Notice of Proposed Rulemaking (NPRM) *1998 Biennial Regulatory Review — Streamlining of Radio Technical Rules Parts 74 and 74 of the Commission's Rules*.¹ Specifically, this statement addresses those comments filed in this matter by *Central Virginia Educational Telecommunications Corporation ("CVETC")* as they relate to a pending proposal by *HRETA* to construct a new FM radio station.

By way of background, *HRETA* has an application pending at the Commission for a construction permit for a new FM station on 89.1 MHz (Ch. 206B1) to serve Mathews, Virginia (file number BPED-971015MB). *CVETC* subsequently tendered a conflicting application to modify the facilities of *WCVE-FM*, 88.9 MHz (Ch. 205B), Richmond, Virginia (file number BPED-971202IB). Specifically, the *WCVE-FM* application involves an increase in effective radiated power (ERP), which causes a mutually exclusive situation due to prohibited overlap between their proposal and that filed by *HRETA*.

The prohibited overlap is depicted in the map attached as **Figure 1**. As shown in **Figure 1**, the interfering 54 dB μ F(50,10) predicted contour from the proposed *WCVE-FM* facility has considerable overlap with the protected 60 dB μ F(50,50) predicted contour of the proposed *HRETA* Mathews facility. This overlap, which indicates interference to the Mathews facility's service area, is prohibited by §73.509(a) of the Commission's rules. As such, the proposals are mutually exclusive. There is no overlap between the proposed *HRETA* Mathews interfering 54 dB μ F(50,10) predicted contour and the protected 60 dB μ F(50,50) predicted contour of either the licensed or proposed *WCVE-FM* facility. Thus, the Mathews facility would not interfere with the proposed *WCVE-FM* facility's service area.

¹See MM Docket 98-93, FCC 98-117, released June 15, 1998.

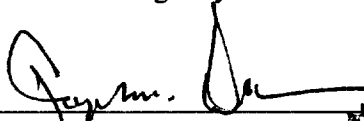
ENGINEERING STATEMENT

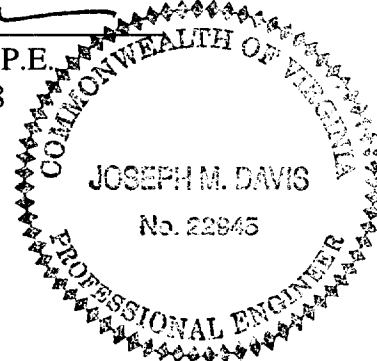
(page 2 of 2)

The *CVETC* comments (and supporting engineering report) filed in the NPRM, however, essentially states that *CVETC* would agree to receive interference within its service area from the Mathews (application) facility. To the contrary, as shown in **Figure 1**, *the Mathews proposal would not interfere with the proposed WCVE-FM operation*. The only overlap involved with the mutually exclusive situation between these two facilities is the proposed WCVE-FM interfering contour that overlaps the protected Mathews contour, which would result in interference to the Mathews facility's service area. The overlap could be eliminated if the proposed WCVE-FM ERP was specified at 11 kW, which would still provide an increased service area beyond the presently licensed 8.3 kW ERP WCVE-FM facility.

Certification

Under the penalty of perjury, the undersigned hereby certifies that the foregoing statement was prepared by him or under his direction, and that it is true and correct to the best of his knowledge and belief. Mr. Davis is a principal in the firm of *Cavell, Mertz & Davis, Inc.*, is a Registered Professional Engineer in Virginia, holds a Bachelor of Science degree from Old Dominion University in Electrical Engineering Technology, and has submitted numerous engineering exhibits to various local governmental authorities and the Federal Communications Commission. His qualifications are a matter of record with that agency.

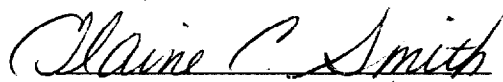

Joseph M. Davis, P.E.
December 3, 1998



COMMONWEALTH OF VIRGINIA
JOSEPH M. DAVIS
No. 22845
PROFESSIONAL ENGINEER

Cavell, Mertz & Davis, Inc.
10300 Eaton Place Suite 200
Fairfax, VA 22030
(703) 591-0110

Subscribed and sworn to before me this 3rd day of December, 1998


My commission expires 4-30-2000

**FIGURE 1
PREDICTED CONTOURS**

prepared December 1998 for
**Hampton Roads Educational
Telecommunications Association, Inc.**

Cavell, Mertz & Davis, Inc.
Fairfax, Virginia

